THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 13908 of 2006

10-07-2006

Between:-

Siryapureddy Bala Muni Reddy

Petitioner

And

The assistant Commissioner, Endowments Department, Kadapa town and district and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 13908 of 2006

Oral order:

The petitioner asserts to be a cultivating tenant of the lands of Sri Chennakesava Swamy Vari Temple, Cheepadu village and mandal, Kadapa district in an extent of Ac.08-54 cents in survey Nos. 564/1 and 565 of Cheepadu village, the lease having been initially granted in the year 1982 and the petitioner now continuing in possession *de facto*. He claims to have made an application to the District Collector and the Revenue Divisional Officer for recognition as a landless poor person for deriving the benefits available to such landless poor persons under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and

Endowments Act, 1987 (for short 'the Act'). The District Collector, Kadapa, by a communication dated 23-10-2004, forwarded the petitioner's application for treatment as a landless poor person to the 1st respondent. Despite the passage of nearly two years from the forwarding of the petitioner's application by the District Collector to the 1st respondent, the 1st respondent has not taken any decision on his application for declaration as a landless poor person, is the complaint.

While so, on 24-06-2006 an auction notice was published by the 2nd respondent-Devasthanam proposing conduct of public auction for grant of leasehold rights of the lands of the Devasthanam.

The writ petition is filed contending that as the petitioner is a landless poor person, he is entitled to a preferential right, to purchase the lands in question at a rate lesser than the market value and that therefore no auction should be held, which would defeat such right of the petitioner.

The entire factual substratum is misconceived. The petitioner claims to be a cultivating tenant of lands in an extent of Ac.08-54 cents. The petitioner has not averred that there was any lease granted after 1982. The legal architecture, of the Act and the relevant Rules do not recognize a perpetual tenancy. The tenancy is fixed by

time and the petitioner has not asserted that there was a lease granted in his favour after 1982. Section 82 (1) of the Act extinguishes existing leases. After such extinction, it is not the petitioner's case that a formal lease was granted by the Devasthanam in his favour.

Be that as it may. As the petitioner even by his own assertion claims to be a cultivating tenant of lands in an extent of Ac.08-54 cents of the 2nd respondent-Devasthanam, the petitioner does not fall to be characterized as a landless poor person as the expression defined in the Explanation to Section 82 of the Act. The petitioner is thus not entitled to any benefits under Section 82 of the Act.

On the aforesaid analysis, the petitioner has no legal right to resist the auction proposed, of the 2nd respondent Devasthanam lands for grant of leasehold rights. The only right of the petitioner is to participate at such auction and compete for grant of a lease in his favour in the competition of the market. No other right exists in the petitioner.

For the aforesaid reasons, the writ petition is dismissed at the stage of admission after hearing the learned Government Pleader for Endowments. No costs.

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GODA RAGHURAM, J

Dated:10-07-2006
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